

Application No.: 10/633,880

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Docket No.: 20003-7012

**REMARKS**

In the advisory action, it is noted that the term "butted-hingedly" is not expressly defined *ipsis verbis* in the specification. However, the undersigned respectfully asserts that an appropriate scope and definition is apparent to a person of ordinary skill in the art when considering the specification, including drawings and claims, as originally filed. Butted-hingedly is used for example in claim 1 to set forth an interrelationship between the former and scoop. Butted is used in the sense of a butt joint or butt hinge (e.g., a hinge composed of two plates attached to abutting surfaces of a door and door jamb and joined by a pin) so butted-hingedly is used to evoke a similar coupling between the specified elements (e.g., the former and scoop of claim 1) without limited the relationship to an actual butt hinge as the drawings show the scoop near the former without a handle or other manipulating arm extending from the scoop.

Since the term "proximate" remains in the claims as pending, the undersigned offers the following comments responsive to the remarks in the Advisory Action. The Advisory Action has impermissibly changed the Jackson rejection – in the Final Office action, the rejection asserted that certain elements were "relatively near" and in the Advisory Action, the remarks were amended to expand a definition of near and remove the "relatively" descriptor. As noted in the Advisory Action, the term "proximate" must be given its broadest REASONABLE (emphasis added) interpretation and the undersigned respectfully asserts that the current construction and characterizations in the Final Office Action and Advisory Action are not reasonable in light of the specification and drawings as originally filed.

As noted in the Advisory Action, a gripper end such as shown in Jackson is not proximate an attachment location of the scoop and former but then the Advisory asserts that something intermediate the gripping end is for some reason "near" – such an interpretation suggests that the Rejection considers elements in a binary condition as either near or far. The undersigned appreciates the difficulties of the term "proximate" in

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the abstract but in the present context, the proximity of the scoop and the former are recited not as a matter of design choice but arise from enablement of a feature of the claimed invention: a possibility of one-handed operation. To be capable of one-handed operation, the former must be operable by manipulation of the single gripping end. The references cited by the Rejection are two-handed models having handles for each of the structures assertedly corresponding to the former and the scoop. It is the proximity of the scoop to the former that helps facilitate this capacity for one-handed operation and since the cited references fail to enable, suggest or teach one-handed operation, the undersigned respectfully asserts that this helps support the lack of the recited proximity, among other distinctions. The teaching of the present invention would be used impermissibly to suggest one-handed operation of the structures of the art of record, particularly since they include almost in every case, two handles (one for each hand of a user).

In view of the above remarks and the amendment previously submitted on 9 May 2005, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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